

APPENDIX A

LAND PROTECTION PLAN

**Grasslands Wildlife Management Area
Proposed Expansion
Merced County, California**

United States Department of the Interior

Fish and Wildlife Service

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**Land Protection Plan
Grasslands Wildlife Management Area
Proposed Expansion**

Merced County, California

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LAND PROTECTION PLAN

Grasslands Wildlife Management Area Proposed Expansion Merced County, California

Introduction

This draft land protection plan outlines resource protection needs, an implementation schedule and priorities, and habitat protection methods the U.S. Fish and Wildlife Service (Service) would use for the proposed Grasslands Wildlife Management Area (WMA) expansion in Merced County, California. This plan proposes conservation easements as the level of protection needed to meet habitat and wildlife management goals for the project area. The Environmental Assessment (EA) evaluated the environmental effects of expanding the approved refuge acquisition boundary to conserve approximately 48,480 acres of grasslands, vernal pools, sloughs and agricultural land.

Nothing in this plan constitutes an offer to purchase private property, or a usurpation of the authority of the State of California, Merced County, or any other jurisdiction to regulate land use within the proposed refuge boundary. This plan is intended to guide the Service's proposed land protection activities subject to the availability of funds and other constraints. To complement this plan, the Service has prepared a conceptual management plan (Appendix B) that describes the general management approaches for the Grasslands Wildlife Management Area.

Project Description

The Service proposes to establish an approved refuge land acquisition boundary and provide protection and management within the proposed expanded boundary of the Grasslands WMA. The Service's proposed action encompasses approximately 49,000 acres of grasslands, vernal pools, agricultural lands, sloughs and riparian woodlands that historically have supported both a diversity of native wildlife, cattle grazing, and agriculture (see Chapter 2, Alternative 3 of the EA.). The refuge study area adjoins the existing Grassland WMA in central Merced County and extends east to Interstate Highway 99 on the western boundary of the City of Merced (see figure 1).

Purpose and Goals of the Grasslands WMA

The purpose for expansion of the Grasslands WMA is to perpetuate a diversity of native wildlife, plants and their habitats representative of the San Joaquin Valley ecosystem. Expanding the WMA would help fulfill the Service's Congressional mandate to conserve, protect, and restore the Nation's wildlife

resources, and would contribute toward implementation of the *Recovery Plan for Upland Species of the San Joaquin Valley, California* (1998), the North American Waterfowl Management Plan, Central Valley Joint Venture and other plans related to waterfowl and shorebird management.

The following goals of the Grasslands WMA reflect the core mission of the Service to protect wildlife resources of national importance while providing opportunities for the public to appreciate and enjoy the natural heritage of the region.

- Protect the native diversity of fish, wildlife, plants and their habitats representative of the San Joaquin Valley's grasslands ecosystem, with an emphasis on migratory birds and waterfowl, shorebirds, endangered species and the habitats they depend on.
- Restore and protect habitats to promote the recovery of endangered and threatened species and species of special concern;
- Protect riparian corridors and preserve a migratory corridor utilizing both natural and agricultural lands.
- Foster public awareness and appreciation of the WMA's unique natural heritage by providing environmental education opportunities through the San Luis National Wildlife Refuge Complex.

The authorities for the acquisition are the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742(a)-754), Endangered Species Act of 1973, as amended (16 U.S.C. 1532-1544, 87 Stat. 884), Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-715d) and Refuge Recreation Act of 1962, as amended (16 U.S.C. 460k-460k-4). The Endangered Species Act of 1973, Fish and Wildlife Act of 1956, and Refuge Recreation Act of 1962 authorize the Service to use funds made available under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4601-11) to acquire lands, waters, or interests therein for fish and wildlife conservation purposes. Federal monies used to acquire private lands through the Land and Water Conservation Fund are derived primarily from oil and gas leases on the outer continental shelf, excess motorboat fuel tax revenues, and the sale of surplus Federal property.

Objectives of the Proposed Action

The Service has two objectives in proposing to expand the Grasslands WMA:

1. To provide the Service with authority to acquire an interest in, or otherwise protect fish and wildlife habitat as a unit of the National Wildlife Refuge System.

2. To provide the Service with the opportunity to manage, enhance, restore, and protect the area for the benefit migratory wildlife, federally listed threatened and endangered species, and other special status and trust species.

Threats to and Status of the Resource to be Protected

Located in the center of the San Joaquin Valley the Grasslands WMA contains important remnant wildlife habitat representative of the Central Valley. Much of the native habitat in the San Joaquin Valley has been converted to intensive agricultural and urban uses. Urban growth within the San Joaquin Valley including the growth of Merced has begun encroaching on the Grasslands WMA, and threatens to increase habitat modification across the Valley floor. Agricultural crop conversion from wildlife compatible crops such as small grains and pasture lands to vineyards, orchards and dairies is occurring at a relatively rapid rate.

The study area and greater grasslands' region supports diverse wildlife habitats including declining native California savanna, rare vernal pools, and riparian habitat along a network of sloughs and creeks. These habitats support numerous federally listed threatened and endangered species on a year-round or seasonal basis including: four freshwater invertebrate species, populations of the San Joaquin kit fox and blunt-nosed leopard lizard.

The grasslands provide wintering forage for 500,000 to one million migratory waterfowl annually. Perpetual conservation easements on farmland utilizing wildlife compatible crops allow for wildlife and the farming community to benefit mutually. Protection of the area under study would also contribute to maintenance of one of the few remaining wildlife corridors across California's Central Valley. The residents of and visitors to the region would benefit from protection and management of these diverse wildlife habitats, abundant wildlife and the scenic open space of Merced County.

Protection Methods

A variety of habitat protection methods can be used to conserve the natural resources of the area within the boundary of the proposed Grasslands WMA expansion. Service policy is to adopt habitat protection measures and strategies that involve acquiring the minimum possible interest or rights in lands and waters. The goal is to leave as large a proportion of these rights as possible in private ownership and still meet the defined resource objectives.

The Service first considered the likelihood of the land/habitat in question being protected under local government action (e.g., zoning, ordinances) designating specific geographic areas where particular uses are either permitted or prohibited; such as residential, business, or open space for the parks. The Service also considered the likelihood of the land/habitat in question being protected under a Federal/State/local permit, license or other program. Since the above protection methods are not

available or not being used at the local and State level to protect these lands, the Service examined the degree of land acquisition which may be needed to protect habitat resources.

These acquisition options range from the acquisition of land by the Service in fee-title, conservation and agricultural easements, cooperative agreements, or memorandum of understanding. Since habitat protection by means of local or State regulatory controls appears unlikely, the Service believes conservation easements represent the minimum possible interest or rights in lands and waters which would need to be acquired to meet the goal of leaving as large a proportion of these rights as possible in private ownership and still meet the habitat protection objectives. Expansion of the Grasslands WMA would provide a coordinated effort to protect native habitats and assist recovery of declining fish and wildlife populations of the San Joaquin Valley.

The term “conservation” is defined to include a wide variety of habitat protection methods. On lands owned and managed by public agencies, cooperative agreements and coordinated planning/management efforts, including shared resources, could be used to conserve natural resources within the proposed refuge boundary. “Conservation” also includes acquisition of land or interest therein by the Service for inclusion in the National Wildlife Refuge System. The Service could acquire fee-title, conservation or agricultural easements, long-term leases, and/or cooperative agreements with willing public agencies and willing landowners through purchase, donation, transfer, exchange, or written agreement.

While the Service Proposed Action (EA, Chapter 2, Alternative 3) is acquisition of conservation easements, habitat protection methods that could be used by the Service to protect habitats within the proposed Grasslands WMA are described below:

Conservation Easements. Conservation easements provide the Service the opportunity to manage lands for their fish and wildlife habitat values. The easement would preclude uses inconsistent with the Service’s management objectives as outlined in Appendix B. In effect, the landowner transfers certain development and property rights to the Service for restrictive uses, as specified in the easement. Property taxes would remain the responsibility of the landowner.

Easements would likely be useful when (1) most, but not all, of a private landowner’s uses are compatible with the Service’s management objectives, and (2) the current owner desires to retain ownership of the land and continue compatible uses under the terms mutually agreed to in the easement.

Land uses that are normally restricted under the terms of a conservation easement include, but are not limited to:

- Development rights (residential, industrial, etc.)
- Alteration of the area’s natural topography

- Uses which adversely effect the area's flora and fauna
- Crop type (cereal grains, corn, etc.)
- Alteration of natural water regimes.

Fee-Title Acquisition. The Service acquires land by outright purchase (fee-title) when (1) the land's fish and wildlife resources require permanent protection that is not otherwise available, (2) the land is needed for development associated with public use, (3) a pending land use could otherwise harm fish and wildlife resources, or (4) purchase is the most practical and economical way to assemble small tracts into a manageable unit. Fee-title acquisition often transfers all property rights owned by the landowner, including mineral and water rights, to the federal government. A fee title interest may be acquired by purchase, donation, exchange, or transfer. The Service does not anticipate, nor propose fee-title acquisition at this time for the project study area, but this method of protection could be considered further in the future should some unforeseen event necessitate additional protection beyond the proposed conservation easements. Such a change in the land protection strategy would require the Service to analyze the potential effects on the human environment as required by the NEPA.

Summary of Planning and Land Acquisition Processes

The Director of the Service, in consultation with the Manager of the California/Nevada Operations (CNO), would approve the designation of the project boundary upon completion of the planning and environmental coordination process. This process includes compliance with the National Environmental Policy Act (NEPA), the Endangered Species Act, and other federal regulations and executive orders. Based on NEPA and other compliance documents, the CNO Manager, in consultation with the Regional Chief of the National Wildlife Refuge System will decide whether to select an expanded project boundary or not. If the decision is to expanded the WMA project boundary, the CNO Manager will determine if an expanded WMA project boundary would have a significant impact upon the quality of the human environment, and make a formal recommendation to the Director for approval. If the selected alternative is determined not to have a significant impact, a Finding of No Significant Impact (FONSI) will be issued. If the selected alternative is determined to have a significant impact, a Notice of Intent to prepare an Environmental Impact Statement (EIS) will be issued.

With the selection of an approved boundary and successful completion of the NEPA process, the selected project alternative can be implemented as described in this Land Protection Plan and Conceptual Management Plan.

The Service's planning process includes the following steps:

- Preliminary agency planning
- Concept plan issued
- Public involvement

- Environmental assessment and other planning documents released
- Public review period of planning documents
- Notice of Decision (whether to expand the WMA or complete an EIS)

Public Scoping and Involvement. In 1999, the Service held a public scoping meeting with potential affected landowners and interested individuals, agencies, and organizations to discuss the proposal to expand the Grasslands WMA. At the request of landowners and interests groups, the Service expanded the study area from approximately 15,000 acres to 49,000 acres subsequent to receiving approval from the Director early in 2000. In September 2000 the Service held a second scoping meeting with the public and again received favorable support for the proposed project.

Throughout the scoping process, the Service has consulted with a number of federal, state, and local elected officials and agencies and private organizations to solicit their views of the proposal. Parties contacted have included: California Department of Water Resources, California Department of Fish and Game, Merced County, and a number of private organizations. As the result of the above public involvement, the Service selected the preferred alternative represented in this Land Protection Plan.

The selection and approval of a project boundary only allows the Service to acquire lands or interest in lands from willing sellers at fair-market value or to enter into management agreements with interested landowners. An approved project boundary does not grant the Service jurisdiction or control over lands within the boundary, and it does not automatically make lands within the project boundary part of the National Wildlife Refuge System. Lands do not become part of the National Wildlife Refuge System unless they are acquired by the Service or are placed under an agreement that provides for management as part of the refuge system.

No new or additional zoning laws would be imposed by the Service within the approved project boundary. Any landowner within an approved project boundary retains all existing rights, privileges, and responsibilities of private-land ownership as determined by local, city, or county jurisdictions. Again, lands remain under the control of the owner until management rights or title to the property has been transferred to or has been acquired by the Service.

The Service land protection policy is to acquire land only when other protective means are not appropriate, available, or effective. The Service strives to obtain the minimum interest necessary to reach management objectives, once land is acquired or retained.

The Service is looking at the long-term protection of this area through conservation easements. Acquisition of private land easements will be phased in over time as funds become available and willing participants come forward. The acquisition and habitat protection program is expected to take several years. Initial acquisition efforts would focus primarily on protecting blocks of land having the highest biological values. The Service recognizes that some lands identified within the approved project boundary may never become part of the National Wildlife Refuge System.

Willing Seller Policy

Service policy is to acquire lands or interest in lands only from willing participants under general authorities such as the Fish and Wildlife Act of 1956, the Endangered Species Act, the Migratory Bird Conservation Act, and the Refuge Recreation Act. Landowners within the project boundary who do not wish to sell their property or any other interest in their property are under no obligation to enter into negotiations or to sell to the Service.

The Service, like other federal agencies, has been given the power of eminent domain, which allows the use of condemnation to acquire lands and other interest in land for the public good. This power, however, is seldom used and is not expected to be used in this project. The Service usually acquires land from willing participants and is not often compelled to buy specific habitats within a specific time frame.

In all cases the Service is required by law to offer 100 percent of fair-market value for lands to be purchased as determined by an approved appraisal that meets professional standards and federal requirements.

Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, landowners who sell their property to the Service are eligible for certain benefits and payments which include:

1. Reimbursement of reasonable moving and related expenses or certain substitute payments.
2. Replacement housing payments under certain conditions.
3. Relocation assistance services to help locate replacement housing/farm/or business.
4. Reimbursement of certain necessary and reasonable expenses incurred in selling real property to the federal government.

Land Protection Priorities Within the Planning Area Boundary

The Service would seek acquisition of conservation easements of all or part of the lands within the proposed refuge boundary. The Service has prepared a table (Table 1) that lists assessor parcel numbers, acreages and priority for acquisition should the property owner be willing to sell and funding become available. Prioritizing the lands within the proposed boundary can be difficult to calculate, as land uses and conditions can change rapidly. The Service has placed a priority on grasslands, non-irrigated pastures and habitat that may be occupied or used by native species. Second in priority would be farmland with wildlife compatible crops (e.g., small grains) and irrigated pastures. Agricultural land that could be converted to wildlife compatible crops or pasture with relatively little expense could also

be considered as priority 2 lands. Third in priority would be lands needing conversion from non-friendly wildlife land use (e.g., vineyards, orchards), to wildlife friendly use (e.g pasture, small grains).

In selecting the priorities for Table 1, satellite images were viewed, noting likely natural features. Because of the predominance of evidence of farming practices such as tilling and row crops within the area, Service personnel noted natural geologic features such as wetlands absent evidence of tilling as a first attempt to identify priority 1 lands. Because the images are at least two years old and some features are difficult to discern, some tracts may be labeled incorrectly. Some tracts may be labeled priority 1 lands even though they may be partially pasture and partially row crops, due to the value of the pasture lands. Other tracts may have been converted after the image was captured. The data for the land cover map was gathered by the California Department of Water Resources, Division of Planning and Local Assistance in 1995, and the satellite images were captured between 1999 and 2000. Final determination of priority lands would occur when final negotiations are made for the purchase of a conservation easement.

Social and Cultural Impacts

The current quality of life communities and individuals around the proposed refuge is expected to remain the same or improve slightly as a result of the expansion of the WMA.

The expansion of the WMA is not expected to change most land use activities or public use patterns in the vicinity of the project area. Some landowners suggest that the easement program will allow them to continue their way of life without having to sell their lands.

Coordination and Consultation

The Service has worked with a variety of interested parties to identify issues and concerns associated with the proposed WMA expansion. These interested parties include members of the public, interested private groups, elected officials, and federal, state and local government agencies. The Service's public involvement activities included hosting meetings, developing a mailing list, requesting information, undertaking consultations, and responding to inquiries. The Service has provided information about the proposal to the media and other interested or affected parties throughout the public scoping period.

The Service has invited and continues to encourage public participation through the public involvement program consisting of public notices, meetings with potential affected landowners, government agencies, and private organizations. Two planning updates have been prepared and sent to landowners and other interested parties. Additionally, two public scoping meetings have been presented to interested individuals. The Environmental Assessment addresses coordination and consultation further in Chapter 1, Section 1.5.1, and Chapter 5.

Summary Of Proposed Action

In light of the valuable resources in the grasslands area and continuing threats to these resources, the Service proposes to expand the eastern division of the Grasslands WMA. The expanded WMA would include between 13,800 and 49,000 additional acres. This proposed expansion would allow the Service to conserve, protect, and restore native grasslands, vernal pools, riparian corridors and wildlife compatible crops through purchase of perpetual conservation easements. The Service does not anticipate, nor propose fee-title acquisition at this time for the project study area, but fee title-protection could be considered further in the future should some unforeseen event necessitate additional protection beyond the proposed conservation easements. Conservation of these habitats and their associated species would be a cooperative responsibility between the Service and landowners.

This expansion of the existing WMA would assist with the recovery of migratory waterfowl populations, shorebirds and neotropical migratory birds of North America's Pacific Flyway. Expansion will also extend protection of valuable wetlands, and assist with protection of resident threatened and endangered species within the project study area,

The study area is located east of the existing Grasslands WMA and Merced National Wildlife Refuge in the heart of Merced County and the northern San Joaquin Valley, California. Three towns frame the proposed easement areas, Merced, Chowchilla, and Los Banos, California. Smaller agricultural communities in the region include El Nido, Dos Palos, and Atwater. Expansion of the WMA would provide nearly continuous land protection between Interstate Highway 5 to the west and State Highway 99 on the eastern boundary of the study area (EA, Figure 1).